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## Local Government Committee

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### HB 2708

**Brief Description:** Eliminating the growth management hearings boards.

**Sponsors:** Representatives Schindler, Woods, Kristiansen, Roach, Bailey, Kretz, Nixon, Holmquist, Sump, Condotta, Kessler, Dunn, Serben, Upthegrove, Armstrong and Hinkle.

#### Brief Summary of Bill

- Eliminates the three Growth Management Hearings Boards (Boards) and repeals all statutes pertaining to the Boards' creation, authority, procedures, and duties.
- Transfers the Boards' authority to review and hear matters arising under the Growth Management Act, Shoreline Management Act, and the State Environmental Policy Act to the Superior Courts.
- Declares that the Superior Courts are not bound by the legal precedents established through the prior decisions of the Boards.

**Hearing Date:** 1/19/06

**Staff:** Thamas Osborn (786-7129).

#### **Background:**

##### ***Overview of the Growth Management Act.***

The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA requires all local governments to comply with specific provisions for natural resource lands and critical areas, and establishes additional substantive and procedural compliance requirements for counties and cities meeting population and growth criteria. Counties not meeting these criteria may choose to adopt a resolution requiring the county and the cities within to comply with all major GMA requirements. Currently, 29 of 39 counties, and the cities within those 29 counties (GMA jurisdictions), are required to or have chosen to plan under the major requirements of the GMA .

The GMA establishes a list of planning goals to be used exclusively for guiding the development and adoption of comprehensive plans and development regulations by GMA jurisdictions.

GMA jurisdictions must satisfy numerous planning requirements. A principal compliance requirement is the adoption of internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body.

Each comprehensive plan must include planning provisions for specific mandatory "elements" such as land use, housing, utilities, and transportation.

Planning policies must be adopted by GMA jurisdictions. These policies are used solely for establishing a county-wide framework from which county and city comprehensive plans are developed and adopted. County-wide planning policies must include, in part, policies addressing urban growth areas, orderly development, transportation facilities and strategies, and joint county and city planning within urban growth areas.

Each county planning under the major requirements of the GMA must designate urban growth areas within which urban growth must be encouraged and outside of which urban growth is prohibited.

GMA jurisdictions must adopt development regulations that control development or land use activities. Locally adopted, these development regulations must be consistent with and implement the comprehensive plan of the adopting jurisdiction.

**Overview of the role of the Growth Management Hearings Boards.**

GMA comprehensive plans and development regulations are presumed valid upon adoption. However, issues relating to GMA plans and regulations may be appealed to one of three regional Growth Management Hearings Boards (Boards). The Boards also hear appeals regarding related provisions of the Shoreline Management Act (SMA) and the State Environmental Policy Act (SEPA). The GMA also provides a mechanism for a direct appeal to the Superior Court under certain circumstances. All proceedings before a Board must be conducted in accordance with administrative rules of practice and procedure that are jointly developed and adopted by the Boards.

**Appointment and qualifications of Board members.**

Each Board consists of three members appointed by the Governor for six year terms. The Board members must be qualified by experience or training in matters relating to land use planning and must reside within the jurisdictional boundaries of the Board on which he or she serves. Any Board member may be removed from office for inefficiency, malfeasance or misfeasance, pursuant to procedures initiated by written charges being filed by the Governor.

**Regional jurisdiction of each Board.**

Each Board is allowed to hear only those matters pertaining to the cities and counties located within its jurisdictional boundaries. The jurisdictional designations of the three boards are as follows:

1. An Eastern Washington Board;
2. A Central Puget Sound Board; and
3. A Western Washington Board.

**Jurisdictional authority of the Boards.**

The Boards' jurisdictional authority is limited to determining compliance with GMA requirements, as well as related requirements of the SMA and the SEPA. The Boards' review is generally limited to the record created by the local governments when adopting the GMA plans or regulations being challenged. The Boards may find compliance or remand for plans or regulations to be brought into compliance. The Boards also may invalidate plans or regulations that "substantially interfere" with the goals and requirements of the GMA.

**Procedural requirements for review by a Board.**

Requests for review by a Board must be initiated through the filing of a petition that includes a detailed statement of the issues presented to the Board for resolution. The Board must render written decisions that explicitly state the basis for its holdings. As a general rule, such decisions must be based on the formal record of the issue in question as developed by the city, county, or state. However, the Board may supplement the record with additional evidence where such evidence would be of substantial assistance to the Board in rendering its decision.

The decisions of the Board may be appealed to the Superior Court. However, petitions for review may be directly heard by the Superior Court if all parties to the proceeding before the board have agreed to such direct review.

**Summary of Bill:**

The three regional Boards are eliminated. All of the statutes within the GMA pertaining to the creation, membership, procedures, authorities, and duties of the Boards are repealed.

The authority of the Boards to hear petitions for the review of actions arising under the GMA, SMA, and SEPA is transferred to the Superior Courts. All legal issues previously falling within the jurisdiction of the Boards are now subject to Superior Court jurisdiction, and are therefore subject to judicial review in accordance with the Rules of Civil Procedure.

The Superior Courts are not bound by the legal precedents established through the prior decisions of the Boards.

All cases pending before the Boards upon the effective date of the act are transferred to the Superior Courts.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2006.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.